

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

SIMMY MARTIN

PLAINTIFF

v.

CIVIL ACTION NO. 3:20-CV-439-KHJ-RPM

KILOLO KIJAKAZI, Acting
Commissioner of Social Security

DEFENDANT

ORDER ADOPTING REPORT AND RECOMMENDATION

Before the Court is the Report and Recommendation (“Report”) of United States Magistrate Judge Robert P. Myers, Jr. [21]. That Report recommends that the Court affirm the Commissioner’s decision denying Simmy Martin disability insurance benefits. Written objections to the Report were due by August 18, 2021, and Judge Myers notified the parties that failure to file written objections to the findings and recommendations by that date would bar further appeal in accordance with 28 U.S.C. § 636. *Id.* No party filed written objections by this deadline.

When no party objects to a magistrate judge’s report and recommendation, the Court need not review it de novo. 28 U.S.C. § 636(b)(1) (“A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings and recommendations to which objection is made.”). In such cases, the Court applies the “clearly erroneous, abuse of discretion and contrary to law” standard of review. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989).

Martin applied for Title II disability insurance benefits, alleging disability beginning on June 1, 2009, because of hearing loss, high blood pressure, vision problems, and problems with his foot. [15] at 19; [16] at 17, 340-45, 364. After his request for benefits was denied, Martin requested a hearing before an administrative law judge (“ALJ”). *Id.* The ALJ heard his case and found Martin not disabled. [15] at 19-27. The Appeals Council denied Martin’s motion for review. [15] at 5-9. Martin then appealed to this Court, arguing the ALJ (1) failed to consider Martin’s multilevel thoracic spondylosis condition; and (2) failed to include a detailed function-by-functional analysis of Martin’s limitations. [18]. The Magistrate Judge found that the ALJ did not err in omitting multilevel thoracic spondylosis as a severe impairment and found Martin’s claim that the ALJ failed to analyze Martin’s limitations lacked merit. [21].

Neither the Commissioner nor Martin objected to this Report and Recommendation. The Court finds that the Report and Recommendation is neither clearly erroneous nor contrary to law and should be adopted as the opinion of this Court.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the Report and Recommendation [21] of United States Magistrate Judge Robert P. Myers, Jr., entered in this cause should be, and the same is, adopted as the finding of this Court.

IT IS, FURTHER, ORDERED AND ADJUDGED that this case is DISMISSED.

A separate Final Judgment will issue this day.

SO ORDERED, this the 19th day of August, 2021.

s/ *Kristi H. Johnson*

UNITED STATES DISTRICT JUDGE